

**REMARKS**

Claims 1-3, 8, 9, 24, and 31-46 are pending in this application. Claims 1, 24, and 44 have been amended. Claim 46 is new. No new matter has been added. Support for the claim amendments and the new claim may be found at least in paragraphs 34-37 of the specification.

**Claims 1-3, 8, 9, 24, 34-36, 38, 41, and 44 are Allowable**

The Office has rejected claims 1-3, 8, 9, 24, 34-36, 38, 41, and 44, at paragraph 4 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,698,020 (“Zigmond”), in view of U.S. Patent No. 6,002,393 (“Hite”), and in further view of U.S. Patent No. 7,006,606 (“Cohen”). Applicants respectfully traverse the rejections.

**Claims 1-3, 8, 9, 34, 36, 38, and 41**

The cited portions of Zigmond, Hite, and Cohen fail to disclose or suggest the specific combination of claim 1. For example, the cited portions of Zigmond, Hite, and Cohen fail to disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

The Office admits that Zigmond fails to disclose or suggest “wherein at least one of the characteristics includes at least whether a particular targeted advertisement was viewed at full length during a most recent playback”. *See* Office Action, p. 8. Therefore, the cited portions of Zigmond do not disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Hite describes a system for targeting TV advertisements to individual consumers. Hite, Abstract. In Hite, a registration feature allows the receive site to store data corresponding to when a commercial is successfully displayed. Hite, col. 3, ll. 29-33. Hite describes that a first level of registration includes a count of the total number of commercials successfully displayed

at all locations. Hite, col. 3, ll. 34-38. Hite describes a second level of registration, called certification, where a viewer responds to an advertisement to certify that the advertisement was successfully displayed. Hite, col. 3, ll. 38-48. The cited portions of Hite do not disclose or suggest determining whether a user switched channels during a most recent playback of an advertisement. Therefore, the cited portions of Hite do not disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Cohen describes a system that assigns attributes to consumers and then an advertiser screens the attributes of a consumer and assigns a weight to each attribute according to a weighting value assigned by a vendor. Cohen, col. 13, ll. 49-61. In Cohen, the weighted attributes are then scored for each vendor and ranked and ordered, and the system then determines which advertisement to display. Cohen, col. 3, ll. 61-67. The cited portions of Cohen do not disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Therefore, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 1. Hence, claim 1 is allowable. Claims 2, 3, 8, 9, 34, 36, 38, and 41 are allowable, at least by virtue of their dependence from claim 1.

#### Claims 24 and 35

The cited portions of Zigmond, Hite, and Cohen fail to disclose or suggest the specific combination of claim 24. For example, the cited portions of Zigmond, Hite, and Cohen fail to disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 24.

The Office admits that Zigmond fails to disclose or suggest “wherein at least one of the characteristics includes at least whether a particular targeted advertisement was viewed at full length during a most recent playback”. See Office Action, p. 8. Therefore, the cited portions of Zigmond do not disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 24.

Hite describes a system for targeting TV advertisements to individual consumers. Hite, Abstract. In Hite, a registration feature allows the receive site to store data corresponding to when a commercial is successfully displayed. Hite, col. 3, ll. 29-33. Hite describes that a first level of registration includes a count of the total number of commercials successfully displayed at all locations. Hite, col. 3, ll. 34-38. Hite describes a second level of registration, called certification, where a viewer responds to an advertisement to certify that the advertisement was successfully displayed. Hite, col. 3, ll. 38-48. The cited portions of Hite do not disclose or suggest determining whether a user switched channels during a most recent playback of an advertisement. Therefore, the cited portions of Hite do not disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 24.

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Therefore, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 24. Hence, claim 24 is allowable. Claim 35 is allowable, at least by virtue of its dependence from claim 24. Further,

claim 35 recites additional elements not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of the above-cited references fail to disclose or suggest selection data further including categorization data designating a location in the hierarchy of categories, where the particular selected advertisement includes a closest advertisement in the hierarchy of categories to the designated location, as in claim 35.

Hite describes a targeted advertising system that targets advertisements to consumers by grouping the consumers into a limited number of classes. Hite, col. 8, ll. 3-11. The cited portions of Hite do not disclose or suggest selecting targeted advertisements based on the proximity of a consumer to an advertiser. The cited portions of Zigmond and Cohen also fail to disclose or suggest this element of claim 35. For at least this additional reason, claim 35 is allowable.

#### Claim 44

The cited portions of Zigmond, Hite, and Cohen fail to disclose or suggest the specific combination of claim 44. For example, the cited portions of Zigmond, Hite, and Cohen fail to disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 44.

The Office admits that Zigmond fails to disclose or suggest “wherein at least one of the characteristics includes at least whether a particular targeted advertisement was viewed at full length during a most recent playback”. *See* Office Action, p. 8. Therefore, the cited portions of Zigmond do not disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 44.

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certification, where a viewer responds to an advertisement to certify that the advertisement was successfully displayed. Hite, col. 3, ll. 38-48. The cited portions of Hite do not disclose or suggest determining whether a user switched channels during a most recent playback of an advertisement. Therefore, the cited portions of Hite do not disclose or comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 44.

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Therefore, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 44. Hence, claim 44 is allowable.

### **Claim 31 is Allowable**

The Office has rejected claim 31, at paragraph 5 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Zigmond, in view of Hite, in view of Cohen, and in further view of U.S. Patent No. 5,835,087 (“Herz”). Applicants respectfully traverse the rejection.

Claim 31 depends from claim 24. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 24. The cited portions of Herz fail to disclose or suggest the elements of claim 24 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Herz fail to disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a

user switched channels during a most recent playback of a particular targeted advertisement, as in claim 24.

Herz describes a system that identifies objects of user interest using profile information that describes both the user's interests and the desired objects Herz, col. 6, ll. 1-7. In Herz, objects such as published articles, purchasable items, people, and property are identified by attributes which correlate to the quality of the object. Herz, col. 6, ll. 29-33. The cited portions of Herz do not disclose or suggest comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 24.

Therefore, the cited portions of Zigmond, Hite, Cohen, and Herz, individually or in combination, fail to disclose or suggest at least one element of claim 24, from which claim 31 depends. Hence, claim 31 is allowable, at least by virtue of its dependence from claim 24.

#### **Claims 32 and 33 are Allowable**

The Office has rejected claims 32 and 33, at paragraph 6 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Zigmond, in view of Hite, in view of Cohen, and in further view of U.S. Patent No. 6,078,412 ("Fuse"). Applicants respectfully traverse the rejections.

#### Claim 32

Claim 32 depends from claim 1. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 1. The cited portions of Fuse fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Fuse fail to disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1. Fuse describes a system for converting analog signals to digital signals where the analog signal is converted to a digital

signal and then dividing the digital signal into a plurality of groups depending on degrees of importance in constructing the original analog signal. Fuse, Abstract.

Therefore, the cited portions of Zigmond, Hite, Cohen, and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claim 32 depends. Hence, claim 32 is allowable, at least by virtue of its dependence from claim 1.

### Claim 33

Claim 33 depends from claim 24. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 24. The cited portions of Fuse fail to disclose or suggest the elements of claim 24 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Fuse fail to disclose or suggest comparing weighted characteristics of each of the allowable advertisements, wherein the weighted characteristics include at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 24.

Therefore, the cited portions of Zigmond, Hite, Cohen, and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 24, from which claim 33 depends. Hence, claim 33 is allowable, at least by virtue of its dependence from claim 24.

### **Claims 37 and 39 are Allowable**

The Office has rejected claims 37 and 39, at paragraph 7 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Zigmond, in view of Hite, in view of Cohen, and in further view of U.S. Patent No. 6,286,005 ("Canon"). Applicants respectfully traverse the rejections.

Claims 37 and 39 depend from claim 1. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 1. The cited portions of Canon fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Canon fail to disclose or suggest comparing at least one weighted

characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Canon describes a process of optimizing an advertising plan or schedule where the schedule is adjusted incrementally to more closely meet a set of media objectives or to reduce costs. Canon, col. 31, ll. 49-65. In Canon, an initial base advertising plan is created and several alternative spots are identified as possible additions to the plan. Canon, col. 31, ll. 55-67. Canon describes that the additional spots or additions are scored according to the ability to efficiently contribute to meeting the advertising plan's objectives, and then one or more of the alternative spots are added to the plan based on the scores. Canon, col. 32, ll. 1-15. The cited portions of Canon do not disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Therefore, the cited portions of Zigmond, Hite, Cohen, and Canon, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claims 37 and 39 depend. Hence, claims 37 and 39 are allowable, at least by virtue of their dependence from claim 1.

#### **Claim 40 is Allowable**

The Office has rejected claim 40, at paragraph 8 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Zigmond, in view of Hite, in view of Cohen, and in further view of U.S. Patent No. 6,876,974 ("Marsh"). Applicants respectfully traverse the rejection.

Claim 40 depends from claim 1. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 1. The cited portions of Marsh fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Marsh fail to disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at



least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Marsh describes an advertisement display scheduler to receive advertisements from a server. Marsh, Abstract. In Marsh, the advertisement display scheduler receives advertisements and determines the priority of the advertisements and places the advertisements in a queue that is sorted according to a predetermined scheduling criteria. Marsh, Abstract. Marsh describes that the sorting criteria take into account the expiration date of the advertisement to maximize advertising revenue. Marsh, col. 9, ll. 51-65. The cited portions of Marsh do not disclose or suggest determining whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Therefore, the cited portions of Zigmond, Hite, Cohen, and Marsh, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claim 40 depends. Hence, claim 40 is allowable, at least by virtue of its dependence from claim 1.

### **Claims 42 and 43 are Allowable**

The Office has rejected claims 42 and 43, at paragraph 9 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Zigmond, in view of Hite, in view of Cohen, and in further view of U.S. Published Application No. 2003/0149601 (“Cabral”). Applicants respectfully traverse the rejections.

Claims 42 and 43 depend from claim 1. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 1. The cited portions of Cabral fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Cabral fail to disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 1.

Cabral describes a network billboard system that is programmed to display advertisements based on demographics at specific times and locations. Cabral, ¶ 58. In Cabral,

advertisements that target children would be displayed just before and after school hours, while advertisements that target adults would be displayed during the evening hours. Cabral, ¶ 58.

Therefore, the cited portions of Zigmond, Hite, Cohen, and Cabral, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claims 42 and 43 depend. Hence, claims 42 and 43 are allowable, at least by virtue of their dependence from claim 1.

### **Claim 45 is Allowable**

The Office has rejected claim 45, at paragraph 10 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Zigmond, in view of Hite, in view of Cohen, in view of U.S. Published Application No. 2002/0069105 (“Rosario Botelho”), and in further view of U.S. Patent No. 6,493,709 (“Aiken”). Applicants respectfully traverse the rejection.

Claim 45 depends from claim 44. As explained above, the cited portions of Zigmond, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 44. The cited portions of Rosario Botelho and Aiken fail to disclose or suggest the elements of claim 44 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Rosario Botelho and Aiken fail to disclose or suggest comparing at least one weighted characteristic of each allowable advertisement of a set of allowable advertisements, where the at least one weighted characteristic includes at least whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 44.

Rosario Botelho describes a modified advertisement targeting process that displays targeted advertisements when valid advertisement selection information exists, and displays non-targeted advertisements when no valid advertisement selection information exists. Rosario Botelho, ¶ 3, claim 53. The cited portions of Rosario Botelho do not disclose or suggest determining whether a user switched channels during a most recent playback of a particular targeted advertisement, as in claim 44. Aiken describes a system for managing files by detecting similarities between files. Aiken, Abstract. In Aiken, a comparison of files to a query file is made and files that match the query file are digitally shredded. Aiken, Abstract.

Therefore, the cited portions of Zigmond, Hite, Cohen, Rosario Botelho, and Aiken, individually or in combination, fail to disclose or suggest at least one element of claim 44, from which claim 45 depends. Hence, claim 45 is allowable, at least by virtue of its dependence from claim 44.

#### **New Claim 46 is Allowable**

New claim 46 depends from claim 1, which Applicants have shown to be allowable. Hence, claim 46 is allowable, at least by virtue of its dependence from claim 1. Further, claim 46 recites additional elements that are not disclosed or suggested by the cited portions of the above-cited references. For example, the above-cited references fail to disclose or suggest a weighted characteristic that includes an amount of time that a particular targeted advertisement was viewed by a user during a most recent playback, as in claim 46. For at least this additional reason, claim 46 is allowable.

#### **CONCLUSION**

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited references as applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

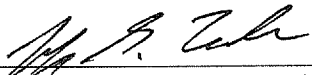
Any changes to the claims in this response that have not been specifically noted to overcome a rejection based upon the cited references should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

11-19-2010  
Date

Respectfully submitted,

  
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